<table>
<tr><td>

Response under 37 C.F.R. 1.116
- Expedited Examining Procedure -
Examining Group 2152

</td><td>

MAIL STOP - AF
Attorney Docket No.: 83304D/SHS
Customer No.: 01333

</td></tr>
</table>

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Lou Chauvin et al. **SYSTEM, METHOD AND SOFTWARE** **PRODUCT FOR ORDERING IMAGE** **PRODUCTS OVER A COMMUNICATION** **NETWORK FROM A PLURALITY OF** **DIFFERENT PROVIDERS HAVING VARIOUS** **BUSINESS RELATIONSHIPS, USING IMAGES** **STORED ON A DIGITAL STORAGE DEVICE** U.S. Serial No. 10/050,979 Filed: 18 January 2002	Group Art Unit: 2152 Examiner: Kenny S. Lin Confirmation No.: 9113

Mail Stop – AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pre-Appeal Brief Request for Review

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested based on the following Arguments.

Arguments

Claim 22 provides a method involving a plurality of **service providers** (e.g., Snapfish, Kodak Gallery, Winkflash, Yorkphoto, and Shutterfly). When a **user** inserts a digital storage device (e.g., CD, memory stick, and flash card) into an order terminal (e.g., a kiosk and digital mini-lab), the order terminal provides access to the service providers through a **network service**. The digital storage device is encoded with the identity of a particular **business entity** (e.g., a company that manufactured the device, a company that marketed the device, a retailer that sold the device, and a company that is renting the device to the user).

A data base is maintained by the network service. The data base identifies any predefined business relationships between business entities and service providers. Using the predefined business relationships, the network service can present a ranking of the service providers to the user so that a particular service provider can be selected. For example, a user of a storage device encoded to identify Eastman Kodak Company (a business entity) to the network service may receive a lower photofinishing price from Kodak Gallery (a service provider) than would users of non-Kodak storage devices in accordance with a business relationship between Kodak and Kodak Gallery.

So, we see that claim 22 sets forth four distinct classes of entities: **users, network services, service providers, and business entities**. Along with this, the claim defines predefined business relationships between the business entities encoded on the storage device and each of the service providers.

Using the language of the Kodak application, Mizumo discloses only three classes of entities: users (40), network services (10), and service providers (30). The service providers perform photofinishing and print delivery. The user is presented with relevant information (such as location of the service provider), allowing selection of the most desirable service provider.

Mizumo does not disclose a digital storage device having both a stored image and a code stored to identify one of a plurality of business entities. Nor does Mizumo disclose a plurality of business entities each having a predefined business relationship with each of said plurality of service providers. In the advisory action, the Examiner states that the service provider shops (30) are the business entities, and that these shops have a business relationship with the network services (10). While this may be true, claim 22 calls for the service providers to have a business relationship with a business entity that is both other than the network services and encoded on the digital storage device.

Brooks does not disclose the claimed features lacking in Mizumo.

Thus, there exists a clear factual deficiency in the rejections because of the Examiner's failure to address the limitation of four distinct classes of entities: users, network services, service providers, and business entities. Further, the Examiner fails to address the claim features of a business entity that is distinct from the service provider and that has been encoded on the digital storage device. Applicant believes that these omissions in the rejections of record amount to clear error.

Claim 35 calls for an order terminal capable of reading a digital storage device from which a user can order products and services from a plurality of service providers. The digital storage device is encoded with the identity of a particular business entity. A data base stores rankings of business relationships between business entities and service providers. Mizumo does not disclose a digital storage device having an association with one of a plurality of business entities. Nor does Mizumo disclose a data base for storing rankings of business relationships between business entities and service providers. Brooks does not disclose the claimed features lacking in Mizumo. Thus, there exists a clear factual deficiency in the rejections because of the Examiner's failure to address the claim features of a digital storage device having an association with one of a plurality of business entities and of a data base for storing rankings of business relationships between business entities and service providers.

Claim 43 is directed to a program storage device embodying instructions to perform method steps involving a plurality of **service providers** accessed by a **user** through a **network service** and a digital storage device that is encoded with the identity of a particular **business entity**. Predefined business relationships between business entities and service providers are maintained in a data base and used to more prominently display one of the service providers on an order screen. Like claim 22, claim 43 sets forth four distinct classes of entities: **users, network services, service providers, and business entities**. Thus, there exists a clear factual deficiency in the rejections because of the Examiner's failure to address the limitation of four distinct classes of entities: users, network services, service providers, and business entities.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Eastman Kodak Company's Deposit Account No. 05-0225.

Respectfully submitted,

Stephen H. Shaw, Esq.
Attorney for Applicant(s)
Registration No. 45,404

SHS:cvn
Telephone: 585-477-7419
Facsimile: 585-477-1148

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.